

AMENDED IN ASSEMBLY JUNE 19, 2003

**SENATE BILL**

**No. 938**

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**Introduced by Senator McPherson**

February 21, 2003

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An act to amend Sections 36501, 36522 ~~and 36523 of~~, 36523, and 36527 of, to add Section 36533.5 to, and to repeal Section 36523.5 of, the Streets and Highways Code, relating to improvement areas.

LEGISLATIVE COUNSEL'S DIGEST

SB 938, as amended, McPherson. Parking and business improvement areas.

The Parking and Business Improvement Area Law of 1989 authorizes a city council to establish a parking and business improvement area and to levy benefit assessments on businesses within the area for the purpose of providing specified improvements and activities. Existing law requires the proceedings to be instituted by adoption of a resolution of intention containing specified information.

This bill would authorize a resolution of intention to provide for the levy of annual assessments for a period not to exceed 5 years.

Existing law requires a public hearing to take place between 20 and 30 days after adoption of the resolution, for the establishment or modification of an area, or of improvements or activities in an area, or for the disestablishment of an area, and sets forth certain notice requirements for the hearing.

This bill would change the date on which a public hearing for a parking and business improvement area must take place to at least 45 days after the adoption of the resolution of intention. The bill would make other related changes.

The bill would additionally require, *with certain exceptions*, the holding of a public meeting at which local officials would allow public testimony in those cases in which a new or increased assessment is proposed.

This bill would delete current notice requirements for hearings involving the adoption of new or increased assessments, and would instead require joint notice of any public meeting and public hearing, as specified, to be given to all business owners proposed to be subject to the new or increased assessment by prepaid mail. The bill would require the public meeting to take place at least 10 days after notice is given.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *Section 36501 of the Streets and Highways Code*  
2 *is amended to read:*

3     36501. (a) The Legislature finds and declares that businesses  
4 located and operating within the business districts of this state's  
5 communities are economically disadvantaged, are underutilized,  
6 and are unable to attract customers due to inadequate facilities,  
7 services, and activities in the business districts.

8     (b) The Legislature also finds and declares that it is in the public  
9 interest to promote the economic revitalization and physical  
10 maintenance of the business districts of its cities in order to create  
11 jobs, attract new businesses, and prevent erosion of the business  
12 districts.

13     (c) The Legislature also finds that it is of particular local benefit  
14 to allow cities to fund ~~property-related~~ *business district*  
15 improvements and activities through the levy of assessments upon  
16 the businesses which benefit from those improvements and  
17 activities.

18     (d) The Legislature also finds and declares that tourism is a  
19 large and growing contributor to California's economy, and that  
20 promotion of a city's or county's scenic, recreational, cultural, and  
21 other attractions as a tourist destination is an important public  
22 purpose.

23     (e) The Legislature also finds and declares that assessments  
24 levied for the purpose of providing improvements and promoting



1 activities which benefit individual businesses ~~may also benefit the~~  
2 ~~property within the area directly or indirectly and that those~~  
3 ~~assessments~~ are not taxes for the general benefit of a city, but are  
4 assessments for the improvements and activities which confer  
5 special benefits upon the businesses for which the improvements  
6 and activities are provided.

7 *SEC. 2.* Section 36522 of the Streets and Highways Code is  
8 amended to read:

9 36522. Proceedings to establish a parking and business  
10 improvement area shall be instituted by the adoption by the city  
11 council of a resolution of intention to establish the area. The  
12 resolution of intention shall do all of the following:

13 (a) State that a parking and business improvement area is  
14 proposed to be established pursuant to this chapter and describe the  
15 boundaries of the territory proposed to be included in the area and  
16 the boundaries of each separate benefit zone to be established  
17 within the area. The boundaries of the area may be described by  
18 reference to a map on file in the office of the clerk, showing the  
19 proposed area.

20 (b) State the name of the proposed area.

21 (c) State the type or types of improvements and activities  
22 proposed to be funded by the levy of assessments on businesses in  
23 the area. The resolution of intention shall specify any  
24 improvements to be acquired.

25 (d) State that, except where funds are otherwise available, an  
26 assessment will be levied annually to pay for all improvements and  
27 activities within the area. The resolution may provide for the levy  
28 of annual assessments for a period not to exceed five years.

29 (e) State the proposed method and basis of levying the  
30 assessment in sufficient detail to allow each business owner to  
31 estimate the amount of the assessment to be levied against his or  
32 her business.

33 (f) State whether new businesses will be exempt from the levy  
34 of the assessment, pursuant to Section 36531.

35 (g) Fix a time and place for a public meeting and a public  
36 hearing on the establishment of the parking and business  
37 improvement area and the levy of assessments. The public hearing  
38 at which the legislative body proposes to enact or increase an  
39 assessment shall be held not less than 45 days after the adoption  
40 of the resolution of intention. The public meeting, at which local

1 officials allow public testimony regarding the proposed  
2 assessment, shall be held before the public hearing.

3 (h) State that at the hearing the testimony of all interested  
4 persons for or against the establishment of the area, the extent of  
5 the area, or the furnishing of specified types of improvements or  
6 activities will be heard.

7 ~~SEC. 2.~~

8 SEC. 3. Section 36523 of the Streets and Highways Code is  
9 amended to read:

10 36523. (a) Notice of a public hearing held under Section  
11 36524, 36541, 36542, or 36550 that does not involve the adoption  
12 of a new or increased assessment shall be given by both of the  
13 following:

14 (1) Publishing the resolution of intention in a newspaper of  
15 general circulation in the city once, ~~for~~ at least seven days before  
16 the public hearing.

17 (2) Mailing of a complete copy of the resolution of intention by  
18 first-class mail to each business owner in the area within seven  
19 days of the city council's adoption of the resolution of intention.

20 (b) (1) Joint notice of any public meeting and public hearing  
21 held under Section 36524, 36541, 36542, or 36550 that involves  
22 the adoption of a new or increased assessment shall be given to all  
23 business owners proposed to be subject to the new or increased  
24 assessment.

25 (2) The mailed notice shall include, but not be limited to, the  
26 following information:

27 (A) The estimated amount of the assessment per business. If the  
28 assessment is proposed to be increased from the previous year, the  
29 notice shall separately state the amount of the existing assessment  
30 and the proposed assessment increase.

31 (B) A general description of the purpose or improvements that  
32 the assessment will fund, although the description may be more  
33 specific if the legislative body determines it to be appropriate.

34 (C) The address to which property owners may mail a protest  
35 against the assessment.

36 (D) The telephone number and address of an individual, office,  
37 or organization that interested persons may contact to receive  
38 additional information about the assessment.

39 (E) A statement that a majority protest will cause the  
40 assessment to be abandoned.

(F) The dates, times, and locations of the public meeting and hearing, described in subdivision (d).

(G) A proposed assessment formula or range that is sufficiently detailed to allow each business owner to estimate the amount of the assessment to be levied against his or her business.

(3) In the case of an area established primarily to promote tourism, a copy of the resolution of intention shall also be mailed by first-class mail within seven days of the city council's adoption of the resolution, to the owner of each business in the area that will be subject to the assessment.

(c) The mailed notice given pursuant to subdivisions (a) and (b) shall be in at least 10-point type and shall include, on the envelope or cover of the mailing, the name of the local agency and the return address of the sender, and shall be deposited in the United States mail with postage prepaid. Notice shall be deemed given when so deposited.

(d) (1) A public meeting pursuant to subdivision (g) of Section 36522 shall take place no earlier than 10 days after notice is given pursuant to paragraph (1) of subdivision (b).

(2) A public hearing shall take place not less than 45 days after the adoption of the resolution of intention pursuant to Section 36522 and, if a public meeting is required, no earlier than seven days after the meeting is held.

~~SEC. 3.~~

SEC. 4. Section 36523.5 of the Streets and Highways Code is repealed.

SEC. 5. *Section 36527 of the Streets and Highways Code is amended to read:*

36527. If the city council, following the public hearing, decides to establish the proposed parking and business improvement area, it shall adopt an ordinance to that effect. The ordinance shall contain all of the following:

(a) The number, date of adoption, and title of the resolution of intention.

(b) The time and place where the public hearing was held concerning the establishment of the area.

(c) A determination regarding any protests received at the public hearing.

(d) The description of the boundaries of the area and of each separate benefit zone established within the area.

1 (e) A statement that a parking and business improvement area  
2 has been established and the name of the area.

3 (f) A statement that the businesses in the area established by the  
4 ordinance shall be subject to any amendments to this part.

5 (g) ~~The~~ A description of the method and basis of levying the  
6 assessments, with a breakdown by classification of businesses if  
7 a classification is used.

8 (h) *A statement that assessments will be levied for one year; and*  
9 *may be relieved in subsequent years pursuant to Chapter 3*  
10 *(commencing with Section 36530), except that the ordinance shall*  
11 *state whether assessments are authorized for up to five years*  
12 *pursuant to subdivision (d) of Section 36522.*

13 (i) A statement that the improvements and activities to be  
14 provided in the area will be funded by the levy of the assessments.  
15 The revenue from the levy of assessments within an area shall not  
16 be used to provide improvements or activities outside the area or  
17 for any purpose other than the purposes specified in the resolution  
18 of intention, as modified by the city council at the hearing  
19 concerning establishment of the area.

20 ~~(j)~~

21 (j) A finding that the businesses and the property within the  
22 business and improvement area will be benefited by the  
23 improvements and activities funded by the assessments proposed  
24 to be levied. In the case of an area formed to promote tourism, only  
25 businesses that benefit from tourist visits may be assessed.

26 ~~(j)~~

27 (k) The time and manner of collecting the assessments.

28 SEC. 6. *Section 36533.5 is added to the Streets and Highways*  
29 *Code, to read:*

30 36533.5. (a) *The city council may adopt a resolution*  
31 *confirming the report prepared pursuant to Section 36533 without*  
32 *modification and levying an assessment for the fiscal year referred*  
33 *to in the report without further notice or hearing if it makes both*  
34 *of the following determinations:*

35 (1) *That assessments were authorized to be levied for a period*  
36 *of up to five years pursuant to subdivision (d) of Section 36522,*  
37 *and that assessments have been levied pursuant to that*  
38 *authorization for fewer than the number of years authorized.*

39 (2) *That the report prepared pursuant to Section 36533 does*  
40 *not propose any change in the method and basis of levying the*

1 *assessments, or in the boundaries of the district or of any benefit*  
2 *zone or zones within the district.*

3 *(b) If assessments were authorized to be levied for a period of*  
4 *up to five years pursuant to subdivision (d) of Section 36522, and*  
5 *the city council does not make either or both of the findings*  
6 *required under subdivision (a), the city council may undertake to*  
7 *levy an assessment pursuant to the notice, hearing, resolution, and*  
8 *other provisions of this chapter.*

